IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 760 OF 2001

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 31/7/2000 IN W.P.NO:19267 of 1993.)

Between:

1.The Managing Director, A.P. State Housing Corporation, Gruhakalpa, M.J. Road, Nampally, Hyderabad.

2.The District Manager, A.P. State Housinjg Corporation Ltd., Karimnagar, Karimnagar District.

3.The District Collector/Executive Director, A.P. State Housing Corporation Ltd., Karimnagar, Karimnagar District.

..... APPELLANTs

AND

1.E.Laxma Reddy, s/o Malla Reddy, working as Attender, O/O APSHC Ltd., Karimnagar, Karimnagar District.

2.D.Krishna s/o Venkataiah, working as Attender, o/o Dy. E.E. APSHC Ltd., Manthani, Karimnagar District.

3.A.Durgaiah, s/o Rayamallu, working as Attender, o/o APSHC ltd., Karimnagar, Karimnagar District.

4.B.Shiva Prasad, s/o Seshaiah, working as Night Watchman, o/o Dy. E.E. APSHC Ltd., Jagityal, Karimnagar District.

.....RESPONDENTs

Counsel for the Appellant: Mr.V.Ch.Naidu.

Counsel for the Respondent No.:Mr.A.Rajasekhararedd y.

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The Court made the following :

ORDER: (Per the Honourable Sri Justice S.Ananda Reddy)

This writ appeal is filed by the A.P. State Housing Corporation aggrieved by the order of the learned single Judge, under which the order passed by the 1st appellant in proceedings No:198/A5/1993, dated 2.12.1993, under which the proceedings of the 3rd appellant in WSHC/5113/89-A4, dated 25.1.1990 appointing the petitioners-respondents herein, were cancelled, was set aside.

The respondents herein who are four in number were appointed on daily wage basis in the Corporation as per the proceedings in R.C.No:WSHC/190/T1/1983, dated 22.12.1983. While they are continuing in service, by proceedings in R.C.No:WSHC/5113/89-A4, dated 25.1.1990 of the 3rd appellant herein, their services have been regularized as attenders against the vacant posts. However, subsequently, the 1st appellant took a different view and passed the orders canceling the regularization of the services of the respondents, by the impugned proceedings. The said proceedings are assailed in the writ petition.

According to the writ petitioners-respondents herein, the cancellation of the

regularization of their services by the Corporation is illegal, apart from discriminatory as the services of other persons who were appointed on daily wages, were regularized under G.O.Ms.No:217, Social Welfare Department, dated 31.12.1984. It is their contention before the learned single Judge that the cut off date fixed under the said G.O. is 30.6.1983, but under the same G.O., one K.Samavathi, who was appointed as typist in October, 1983 was exempted and her services were regularized from 31.12.1984. It was also contended that the said G.O.Ms.No:217 was issued on 30.12.1984 and as they were already in service by that date, there was no justification for excluding them for regularization of their services under the said G.O.

The learned single Judge after considering all the contentions particularly extension of benefit of the G.O. to the candidate who was appointed in the month of October, 1983, cancelled the order impugned herein. Aggrieved by that, the Corporation has come up with the present writ appeal.

The learned Standing Counsel for the Corporation contended that as the benefit of the G.O.Ms.No:217 was restricted only with reference to the appointees on daily wages upto 30.6.1983, the respondents are not entitled for the benefit under the said G.O. and there was no justification for the learned Single Judge in cancelling the order impugned. The learned standing counsel also contended that subsequent to G.O.Ms.No:217, the Government issued G.O.Ms.No:212, Finance & Planning (FW. PC III) Department, dated 22.4.1994 fixing the cut off date as 25.11.1993 and if the respondents are entitled for regularization in terms of the above G.O., their case would be considered. Therefore, the order of the learned single Judge is sought to be modified or quashed.

The learned counsel appearing for the writ petitioners-respondents, on the other hand, supporting the order of the learned single Judge, contended that not only in case of typist whose services were regularized under G.O.Ms.No:217, but subsequently also, the services of two other persons viz., one S.Narasingarao who was appointed as Jeep Driver on 25.11.1987 and another one M.Radha who was appointed as Clerk on 26.12.1983, were regularized on 25.3.1990 and 12.2.1999 respectively.

Therefore, it is contended by the learned counsel that when the services of such persons who were appointed even subsequent to the writ petitioners-

respondents, were regularized, there was no justification in canceling the regularization of services of the respondents. The learned counsel also contended that as the respondents have been in continuous service from December, 1983 i.e., nearly about 21 years service, it is not just and proper to disturb their services.

Heard both the counsel and considered the material on record.

The facts are not in dispute. The only issue is as to whether the Corporation is justified in canceling the regularization of services of the respondents.

The respondents were appointed in December, 1983 and their services were regularized in the year 1990. But, after three years, by the impugned proceedings, their regularization of services was cancelled on the premise that they are not entitled to the benefit conferred under G.O.Ms.No:217.

According to the Corporation, the cut off date fixed under the above G.O. is 30.6.1983. But, contrary to their own orders, as already referred earlier, the services of three candidates who were appointed subsequent to 30.6.1983, were regularized on different dates. Therefore, the said action of the Corporation in cancelling the regularization of services of the respondents, is clearly discriminatory. Apart from that as the respondents were appointed against the regular vacancies as well as regularized against regular vacancies, the orders of regularization of their services were quashed while sustaining the order of regularization with reference to the other persons, who were appointed subsequent to the respondents, as already referred.

A Division Bench of this Court in a case reported in B.BUCHCHA REDDY V. V.BHAGYAMMA () had an occasion to consider a similar issue with reference to the validity of the appointments and regularization and while confirming the orders of the learned single Judge, it has been observed thus:

> *"The learned single Judge in his discretion came to the conclusion that it would be unjust to revert the petitioner after a long lapse of time especially when the teachers who are fighting for the post of headmaster reported before this Court in earlier proceedings that they settled the matter out of the Court.*
>
> *To our mind, interfering with the settled position after a long lapse of 10 years, is against the well establish principles of equity and justice. There are number of cases where this Court as well as the Honourable Supreme Court upheld the appointments which could be legal or did not interfere with the selections and appointments already given effect to."*

In view of the above and the well established principle of equity and justice, We are of the considered view that it would not be proper to disturb the settled position of the writ petitioners-respondents who were appointed in the year 1983 and regularized in the year 1990 and completed more than 21 years of service.

Under the above circumstances, We do not find any merit in the writ appeal.

In the result, this writ appeal is dismissed. No costs.

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Justice T.Meenakumari

14th December, 2004

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justice S.Ananda Reddy

Gurc.

Copies to

1.The Managing Director, A.P. State Housing Corporation, Gruhakalpa, M.J. Road, Nampally, Hyderabad.

2.The District Manager, A.P. State Housinjg Corporation Ltd., Karimnagar, Karimnagar District.

3.The District Collector/Executive Director, A.P. State Housing Corporation Ltd., Karimnagar, Karimnagar District.

4.Two C.D. copies.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A.No:760 of 2001

(order pronounced by Sri Justice S.Ananda Reddy)

14th December, 2004